

AMENDED IN SENATE APRIL 30, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 147

Introduced by Assembly Member V. Manuel Pérez
(Principal coauthor: Senator Hueso)

January 18, 2013

An act to ~~add Chapter 6 (commencing with Section 42750) to Part 4 of Division 26 of the Health and Safety Code, relating to the environment; amend Sections 3000.08 and 3451 of the Penal Code, relating to punishment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as amended, V. Manuel Pérez. ~~Environment: Salton Sea; dust mitigation. Realignment Omnibus Act of 2014.~~

Existing law requires that all persons released from prison after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a high-risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires that these persons be subject to parole supervision

by the Department of Corrections and Rehabilitation following release from state prison and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

This bill would also require that any person who is released from prison who has a prior conviction for any of the above crimes be subject to parole supervision by the department and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

~~Existing law implements the Quantification Settlement Agreement (QSA), which was entered into by various parties to budget their portions of California's apportionment of Colorado River water and to provide a framework for conservation measures and water transfers for a period of up to 75 years. Existing law provides for a framework to mitigate the environmental impacts on the Salton Sea caused by the QSA water transfer. Existing law authorizes the Department of Fish and Wildlife to enter into a joint powers agreement with specified local agencies to establish a joint powers authority for the purposes of providing for the payment of costs for environmental mitigation requirements.~~

~~This bill would require the State Air Resources Board, upon the execution of an agreement with the joint powers authority, to evaluate and determine with the air quality planning completed by the authority is sufficient to mitigate the air quality impacts of the QSA. In the event that the state board concludes that additional mitigation measures are needed, the bill would require the state board to submit recommendation to the authority.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. This act shall be known, and may be cited, as the*
- 2 *Realignment Omnibus Act of 2014.*
- 3 *SEC. 2. Section 3000.08 of the Penal Code is amended to read:*
- 4 3000.08. (a) A person released from state prison prior to or
- 5 on or after July 1, 2013, after serving a prison term, or whose
- 6 sentence has been deemed served pursuant to Section 2900.5, for
- 7 any of the following crimes is subject to parole supervision by the
- 8 Department of Corrections and Rehabilitation and the jurisdiction
- 9 of the court in the county in which the parolee is released, resides,

1 or in which an alleged violation of supervision has occurred, for
2 the purpose of hearing petitions to revoke parole and impose a
3 term of custody:

4 (1) A serious felony as described in subdivision (c) of Section
5 1192.7.

6 (2) A violent felony as described in subdivision (c) of Section
7 667.5.

8 (3) A crime for which the person was sentenced pursuant to
9 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
10 of subdivision (c) of Section 1170.12.

11 (4) Any crime for which the person is classified as a high-risk
12 sex offender.

13 (5) Any crime for which the person is required, as a condition
14 of parole, to undergo treatment by the State Department of State
15 Hospitals pursuant to Section 2962.

16 *(b) A person released from state prison on or after January 1,*
17 *2015, after serving a prison term, or whose sentence has been*
18 *deemed served pursuant to Section 2900.5, to whom any of the*
19 *following apply, is subject to the jurisdiction of, and parole*
20 *supervision by, the Department of Corrections and Rehabilitation*
21 *and the jurisdiction of the court in the county in which the parolee*
22 *is released, resides, or in which an alleged violation of supervision*
23 *has occurred, for the purpose of hearing petitions to revoke parole*
24 *and impose a term of custody:*

25 *(1) The person has a prior conviction of a serious felony*
26 *described in subdivision (c) of Section 1192.7.*

27 *(2) The person has a prior conviction of a violent felony*
28 *described in subdivision (c) of Section 667.5.*

29 *(3) The person has a prior conviction for which the person was*
30 *sentenced pursuant to paragraph (2) of subdivision (e) of Section*
31 *667 or paragraph (2) of subdivision (c) of Section 1170.12.*

32 *(4) The person has a prior conviction of a crime for which the*
33 *person was classified as a high-risk sex offender.*

34 *(5) The person has a conviction of a crime for which the person*
35 *was required, as a condition of parole, to undergo treatment by*
36 *the State Department of State Hospitals pursuant to Section 2962.*

37 ~~(b)~~

38 *(c) Notwithstanding any other law, all other offenders released*
39 *from prison shall be placed on postrelease supervision pursuant*
40 *to Title 2.05 (commencing with Section 3450).*

1 ~~(e)~~

2 ~~(d)~~ At any time during the period of parole of a person subject
3 to this section, if any parole agent or peace officer has probable
4 cause to believe that the parolee is violating any term or condition
5 of his or her parole, the agent or officer may, without warrant or
6 other process and at any time until the final disposition of the case,
7 arrest the person and bring him or her before the court, or the court
8 may, in its discretion, issue a warrant for that person's arrest
9 pursuant to Section 1203.2.

10 ~~(d)~~

11 ~~(e)~~ Upon review of the alleged violation and a finding of good
12 cause that the parolee has committed a violation of law or violated
13 his or her conditions of parole, the supervising parole agency may
14 impose additional and appropriate conditions of supervision,
15 including rehabilitation and treatment services and appropriate
16 incentives for compliance, and impose immediate, structured, and
17 intermediate sanctions for parole violations, including flash
18 incarceration in a city or a county jail. Periods of "flash
19 incarceration," as defined in subdivision ~~(e)~~ ~~(f)~~ are encouraged as
20 one method of punishment for violations of a parolee's conditions
21 of parole. This section does not preclude referrals to a reentry court
22 pursuant to Section 3015.

23 ~~(e)~~

24 ~~(f)~~ "Flash incarceration" is a period of detention in a city or a
25 county jail due to a violation of a parolee's conditions of parole.
26 The length of the detention period can range between one and 10
27 consecutive days. Shorter, but if necessary more frequent, periods
28 of detention for violations of a parolee's conditions of parole shall
29 appropriately punish a parolee while preventing the disruption in
30 a work or home establishment that typically arises from longer
31 periods of detention.

32 ~~(f)~~

33 ~~(g)~~ If the supervising parole agency has determined, following
34 application of its assessment processes, that intermediate sanctions
35 up to and including flash incarceration are not appropriate, the
36 supervising parole agency shall, pursuant to Section 1203.2,
37 petition either the court in the county in which the parolee is being
38 supervised or the court in the county in which the alleged violation
39 of supervision occurred, to revoke parole. At any point during the
40 process initiated pursuant to this section, a parolee may waive, in

1 writing, his or her right to counsel, admit the parole violation,
2 waive a court hearing, and accept the proposed parole modification
3 or revocation. The petition shall include a written report that
4 contains additional information regarding the petition, including
5 the relevant terms and conditions of parole, the circumstances of
6 the alleged underlying violation, the history and background of
7 the parolee, and any recommendations. The Judicial Council shall
8 adopt forms and rules of court to establish uniform statewide
9 procedures to implement this subdivision, including the minimum
10 contents of supervision agency reports. Upon a finding that the
11 person has violated the conditions of parole, the court shall have
12 authority to do any of the following:

13 (1) Return the person to parole supervision with modifications
14 of conditions, if appropriate, including a period of incarceration
15 in county jail.

16 (2) Revoke parole and order the person to confinement in the
17 county jail.

18 (3) Refer the person to a reentry court pursuant to Section 3015
19 or other evidence-based program in the court's discretion.

20 ~~(g)~~

21 (h) Confinement pursuant to paragraphs (1) and (2) of
22 subdivision ~~(f)~~ (g) shall not exceed a period of 180 days in the
23 county jail.

24 ~~(h)~~

25 (i) Notwithstanding any other law, if Section 3000.1 or
26 paragraph (4) of subdivision (b) of Section 3000 applies to a person
27 who is on parole and the court determines that the person has
28 committed a violation of law or violated his or her conditions of
29 parole, the person on parole shall be remanded to the custody of
30 the Department of Corrections and Rehabilitation and the
31 jurisdiction of the Board of Parole Hearings for the purpose of
32 future parole consideration.

33 ~~(i)~~

34 (j) Notwithstanding subdivision (a), any of the following persons
35 released from state prison shall be subject to the jurisdiction of,
36 and parole supervision by, the Department of Corrections and
37 Rehabilitation for a period of parole up to three years or the parole
38 term the person was subject to at the time of the commission of
39 the offense, whichever is greater:

(1) The person is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, and was subject to a period of parole exceeding three years at the time he or she committed a felony for which they were convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

~~(j)~~

(k) Parolees subject to this section who have a pending adjudication for a parole violation on July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings. Parole revocation proceedings conducted by the Board of Parole Hearings prior to July 1, 2013, if reopened on or after July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings.

~~(k)~~

(l) Except as described in subdivision ~~(e)~~, (d), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

~~(l)~~

(m) Any person released to parole supervision pursuant to subdivision (a) or (b) shall, regardless of any subsequent determination that the person should have been released pursuant to subdivision ~~(b)~~, (c), remain subject to subdivision (a) or (b) after having served 60 days under supervision pursuant to subdivision (a) or (b).

~~(m) This section shall become operative on July 1, 2013.~~

SEC. 3. Section 3451 of the Penal Code is amended to read:

3451. (a) Notwithstanding any other law and except for persons serving a prison term for any crime described in subdivision (b), all persons released from prison on and after October 1, 2011, or, whose sentence has been deemed served pursuant to Section 2900.5 after serving a prison term for a felony shall, upon release from prison and for a period not exceeding three years immediately following release, be subject to community supervision provided by a county agency designated by each county's board of supervisors which is consistent with evidence-based practices, including, but not limited to, supervision policies, procedures,

1 programs, and practices demonstrated by scientific research to
2 reduce recidivism among individuals under postrelease supervision.

3 (b) This section shall not apply to any person released from
4 prison after having served a prison term for any of the following:

5 (1) A serious felony described in subdivision (c) of Section
6 1192.7.

7 (2) A violent felony described in subdivision (c) of Section
8 667.5.

9 (3) A crime for which the person was sentenced pursuant to
10 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
11 of subdivision (c) of Section 1170.12.

12 (4) Any crime for which the person is classified as a high risk
13 sex offender.

14 (5) Any crime for which the person is required, as a condition
15 of parole, to undergo treatment by the State Department of State
16 Hospitals pursuant to Section 2962.

17 (c) *This section shall not apply to any person released from*
18 *prison to whom any of the following apply:*

19 (1) *The person has a prior conviction of a serious felony*
20 *described in subdivision (c) of Section 1192.7.*

21 (2) *The person has a prior conviction of a violent felony*
22 *described in subdivision (c) of Section 667.5.*

23 (3) *The person has a prior conviction for which the person was*
24 *sentenced pursuant to paragraph (2) of subdivision (e) of Section*
25 *667 or paragraph (2) of subdivision (c) of Section 1170.12.*

26 (4) *The person has a prior conviction of a crime for which the*
27 *person was classified as a high-risk sex offender.*

28 (5) *The person has a conviction of a crime for which the person*
29 *was required, as a condition of parole, to undergo treatment by*
30 *the State Department of State Hospitals pursuant to Section 2962.*

31 ~~(e)~~

32 (d) (1) Postrelease supervision under this title shall be
33 implemented by a county agency according to a postrelease strategy
34 designated by each county's board of supervisors.

35 (2) The Department of Corrections and Rehabilitation shall
36 inform every prisoner subject to the provisions of this title, upon
37 release from state prison, of the requirements of this title and of
38 his or her responsibility to report to the county agency responsible
39 for serving that inmate. The department shall also inform persons
40 serving a term of parole for a felony offense who are subject to

1 this section of the requirements of this title and of his or her
2 responsibility to report to the county agency responsible for serving
3 that parolee. Thirty days prior to the release of any person subject
4 to postrelease supervision by a county, the department shall notify
5 the county of all information that would otherwise be required for
6 parolees under subdivision (e) of Section 3003.

7 ~~(d)~~

8 (e) Any person released to postrelease community supervision
9 pursuant to subdivision (a) shall, regardless of any subsequent
10 determination that the person should have been released to parole
11 pursuant to Section 3000.08, remain subject to subdivision (a) after
12 having served 60 days under supervision pursuant to subdivision
13 (a).

14 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
15 ~~following:~~

16 ~~(1) The Salton Sea is California's largest lake, covering~~
17 ~~approximately 365 square miles, and it serves as an important stop~~
18 ~~on the annual Pacific Flyway migratory route, supporting over 400~~
19 ~~species of birds and representing over two-thirds of all birds in the~~
20 ~~continental United States.~~

21 ~~(2) The Salton Sea is located in the Imperial Valley and~~
22 ~~Coachella Valley of southern California and rests in close~~
23 ~~proximity to thousands of residents.~~

24 ~~(3) In 2003, the Legislature enacted statutes (Chapters 611, 612,~~
25 ~~and 613 of the Statutes of 2003) to facilitate the execution and~~
26 ~~implementation of the Quantification Settlement Agreement (QSA)~~
27 ~~and related agreements, including a transfer of conserved water~~
28 ~~from the Imperial Irrigation District to the San Diego Water~~
29 ~~Authority. As part of those statutes, the Legislature declared its~~
30 ~~intent that the State of California undertake the restoration of the~~
31 ~~Salton Sea ecosystem and the permanent protection of wildlife~~
32 ~~dependent on the ecosystem.~~

33 ~~(4) Implementation of the water transfer from the Imperial~~
34 ~~Irrigation District to the San Diego Water Authority will reduce~~
35 ~~agricultural drainage inflow to the Salton Sea, reducing the sea's~~
36 ~~depth and result in the exposure of currently submerged sea~~
37 ~~lakebed.~~

38 ~~(5) The exposure of previously submerged sea lakebed has the~~
39 ~~potential to significantly increase fugitive dust emissions for~~
40 ~~particulate matter of 10 or less microns in diameter (PM10) as~~

winds blow across exposed lakebed eroded fine-grained sediments and salts, lofting them into the air.

(6) Experience mitigating particulate matter emissions at other exposed lakebeds has proved to be costly and has demonstrated the need to have a proactive approach to mitigation that stresses control measures over monitoring activities and includes a strong adaptive management platform.

(7) As part of the Quantification Settlement Agreement, the state entered into a Joint Powers Agreement (QSA-JPA) for purposes of financing the mitigation of the environmental impacts resulting from the QSA. The parties of the QSA-JPA include the State of California acting by and through the Department of Fish and Wildlife, the Coachella Valley Water District, the Imperial Irrigation District, and the San Diego County Water Authority.

(8) Under the QSA-JPA, the nonstate member agencies are liable for the cost of mitigating the environmental impacts of the QSA up to the first \$133 million. The QSA-JPA nonstate member agencies have spent a considerable amount of time and resources developing plans to meet this obligation.

(9) Under Section 9.2 of the QSA-JPA, the state agreed to “an unconditional contractual obligation” to pay for the cost of mitigating the environmental impact of the QSA above the first \$133 million in costs.

(b) It is the intent of the Legislature, in enacting this measure, to have the State Air Resources Board evaluate the air quality mitigation developed by the Joint Powers Authority established by QSA-JPA.

SEC. 2. Chapter 6 (commencing with Section 42750) is added to Part 4 of Division 26 of the Health and Safety Code, to read:

CHAPTER 6. SALTON SEA DUST MITIGATION

42750. Unless the context requires otherwise, as used in this chapter, the following terms mean the following:

(a) “Air districts” means the Imperial County Air Pollution Control District and South Coast Air Quality Management District.

(b) “Authority” means the water transfer joint powers authority established pursuant to an agreement entered into pursuant to Chapter 613 of the Statutes of 2003.

(c) “County” means either of the following:

1 ~~(1) The County of Riverside.~~

2 ~~(2) The County of Imperial.~~

3 ~~(d) “Quantification Settlement Agreement” has the same~~
4 ~~meaning as defined in subdivision (a) of Section 1 of Chapter 617~~
5 ~~of the Statutes of 2002.~~

6 ~~(e) “Valley” means either of the following:~~

7 ~~(1) The Imperial Valley.~~

8 ~~(2) The Coachella Valley.~~

9 ~~42751. (a) Upon the execution of an agreement between the~~
10 ~~state board and the authority for purposes of compiling the air~~
11 ~~quality mitigation planning completed by the authority, the state~~
12 ~~board shall evaluate and determine if the air quality planning~~
13 ~~completed by the authority is sufficient to mitigate the air quality~~
14 ~~impacts of the Quantification Settlement Agreement.~~

15 ~~(b) To the extent the state board concludes additional mitigation~~
16 ~~planning needs to take place to mitigate the air quality impacts of~~
17 ~~the Quantification Settlement Agreement, the state board shall~~
18 ~~submit recommendations to the authority.~~

19 ~~(c) This section does not modify existing roles, responsibilities,~~
20 ~~or liabilities of the State of California, the County of Imperial, the~~
21 ~~County of Riverside, or any other governmental agency, under the~~
22 ~~Quantification Settlement Agreement.~~